

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JACQUELINE YORRO,

Plaintiff,

-against-

JUDGE GREGORY CARRO, INGRID
TOLENTINO, Internal Affairs/I.G.; I.G. MARIA
MALDONADO; RAUL NORM, The Center
Appeligation,¹ *et al.*,

Defendants.

21-CV-4900 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is appearing *pro se*, brings this action invoking this Court’s diversity of citizenship jurisdiction, 28 U.S.C. §1332. She alleges that Defendants violated her “constitutional rights on a federal law do [sic] to controversy and conspiracy, federal constitutional human violation rights that all of my evidence are based on federal recorders with attorney general KIOSK 388 144 9435.” (ECF No. 2 at 2.)

By order dated September 28, 2021, the Court granted Plaintiff’s request to proceed without prepayment of fees, that is, *in forma pauperis* (IFP). For the reasons set forth below, the Court dismisses the complaint for failure to state a claim, but grants Plaintiff 30 days’ leave to replead valid claims.

STANDARD OF REVIEW

The Court must dismiss an IFP complaint, or any portion of the complaint, that is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B); *see*

¹ The Court believes that Plaintiff is referring to The Center for Appellate Litigation.

Livingston v. Adirondack Beverage Co., 141 F.3d 434, 437 (2d Cir. 1998). The Court must also dismiss a complaint when the Court lacks subject matter jurisdiction. *See* Fed. R. Civ. P. 12(h)(3).

While the law mandates dismissal on any of these grounds, the court is obliged to construe *pro se* pleadings liberally, *Harris v. Mills*, 572 F.3d 66, 72 (2d Cir. 2009), and interpret them to raise the “strongest [claims] that they *suggest*,” *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474 (2d Cir. 2006) (internal quotation marks and citations omitted) (emphasis in original). But the “special solicitude” in *pro se* cases, *id.* at 475 (citation omitted), has its limits – to state a claim, *pro se* pleadings still must comply with Rule 8 of the Federal Rules of Civil Procedure, which requires a complaint to make a short and plain statement showing that the pleader is entitled to relief.

The Supreme Court has held that, under Rule 8, a complaint must include enough facts to state a claim for relief “that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A claim is facially plausible if the plaintiff pleads enough factual detail to allow the court to draw the inference that the defendant is liable for the alleged misconduct. In reviewing the complaint, the court must accept all well-pleaded factual allegations as true. *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009). But it does not have to accept as true “[t]hreadbare recitals of the elements of a cause of action,” which are essentially just legal conclusions. *Twombly*, 550 U.S. at 555. After separating legal conclusions from well-pleaded factual allegations, the court must determine whether those facts make it plausible – not merely possible – that the pleader is entitled to relief. *Id.*

BACKGROUND

Plaintiff brings this action against several different defendants concerning what appear to be unrelated events. In addition to the defendants listed in the caption of Plaintiff’s complaint,

the following defendants are listed in the body of the complaint: (1) Pamela Prado, “Gigi Jordan assistant relative”; (2) Gigi Jordan; (3) Jose Castillo, “Government employee”; (4) CIA Brenda Mercado, “Government employee”; (5) Albany OSI Chris Nuñez; and (6) Bank of America/T.D. Bank. (ECF No. 2 at 3-5.) Plaintiff states that her claims occurred on the following dates “5/5/2014 to 6/25/14 to 2021, upstate/NYC/Florida state” in “the United States of America.” (*Id.* at 5.)

Plaintiff alleges the following, verbatim:

I, Jacqueline Cano Yorro am suing these Defendants was violating my human right on a constitutional federal law, for using my name and my social security since 2013 when I was incarcerated and my release was July 2, 2020, and my social security was stolen by OSHA Corporation/OSI/Inmate Jessica Duplissee’s Jacqueline Rojas 210 Sherman Avenue 4L, Clarissa Pimentel Officer Almanzar/Rodriguez 15812 with Inmate George Segurra and Parole Officer Muniz Cabrera/ Cartegena Yohaira Colo Ramos Jose, Retaliation, Internet Fraud, Juan Gomez victim family corruption, with Bank Supervisor Marisela of Citibank 207St. Broadway, pain suffering, emotional stress, lost [sic] of hair, illegal sentence Fraud dept, withholding my evidence Brightman A 307. I reported everything since 2014 all my evidence are on surveillance [sic] stateout [sic] Federal Recorders with commissioners & Judges. I am being torturally [sic] abused by Will Smith employee of the California states with the equipments that has been having me in a state of nerve break down, Jeny Direlda harrassing [sic] over the phone and I was never told about any of these equipments, All of my evidence are proofs and evidence for my entire abused/rape case and federal lawsuits, everything is filed the mail man was stealing my legal documents etc. and they was using it for them.

(*Id.* at 5-6.) In the injuries section of the complaint, Plaintiff states that she “fell was hurt with bruises, no medical care. I was assaulted by officers and mistreated do [sic] to inmates lies with C.O. and harrassed [sic], mentally abused, emotional abused, physically abused, disturbing the piece [sic], motionally [sic] disturbed.” (*Id.*) She seeks the following relief:

To pay me for all of my medical expenses, eyeglasses, braces which I need do [sic] to my health. Lost [sic] of furniture do [sic] to eviction, my clothes all of my credit card, all of my HRA lost by Mariela Polanco/Clara Polanco. Fraud/Internet fraud on a recorder 9440 HRA evidence. All of my commissary lost of all of my finances that I never received do [sic] to the fraud/retaliation.

(*Id.* at 6.) Plaintiff attaches to her complaint 29 pages of documents, but it is unclear how these documents relate to any claims that she is attempting to assert.

DISCUSSION

Under Federal Rule of Civil Procedure 8(a)(2), a complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” “When a complaint does not comply with the requirement that it be short and plain, the court has the power, on its own initiative or in response to a motion by the defendant, to strike any portions that are redundant or immaterial . . . or to dismiss the complaint.” *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (1988) (citing Fed. R. Civ. P. 12(f)).

Although Plaintiff’s complaint is short, it is not plain, and it fails to show that she is entitled to relief. In fact, the Court cannot discern any claims that Plaintiff is attempting to assert. The Court therefore concludes that Plaintiff’s allegations fail to state a claim because they do not allow a court “to draw the reasonable inference that the defendant[s] [are] liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678. Accordingly, the Court dismisses the complaint for failure to state a claim on which relief may be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).

LEAVE TO REPLEAD

District courts generally should grant a self-represented plaintiff an opportunity to amend a complaint to cure its defects unless amendment would be futile. *See Hill v. Curcione*, 657 F.3d 116, 123-24 (2d Cir. 2011); *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988). Indeed, the Second Circuit has cautioned that district courts “should not dismiss [a *pro se* complaint] without granting leave to amend at least once when a liberal reading of the complaint gives any indication that a valid claim might be stated.” *Cuoco v. Moritsugu*, 222 F.3d 99, 112 (2d Cir. 2000) (quoting *Gomez v. USAA Fed. Sav. Bank*, 171 F.3d 794, 795 (2d Cir. 1999)). Although the

Court finds that it is unlikely that Plaintiff can allege additional facts to state a valid claim, in light of her *pro se* status, the Court grants Plaintiff 30 days' leave to replead.

In the "Statement of Claim" section of the amended complaint form, Plaintiff must provide a short and plain statement of the relevant facts supporting each claim against each defendant.² If Plaintiff has an address for any named defendant, Plaintiff must provide it.

Plaintiff should include all of the information in the amended complaint that Plaintiff wants the Court to consider in deciding whether the amended complaint states a claim for relief. That information should include:

- a) the names and titles of all relevant people;
- b) a description of all relevant events, including what each defendant did or failed to do, the approximate date and time of each event, and the general location where each event occurred;
- c) a description of the injuries Plaintiff suffered; and
- d) the relief Plaintiff seeks, such as money damages, injunctive relief, or declaratory relief.

Essentially, Plaintiff's amended complaint should tell the Court: who violated his federally protected rights and how; when and where such violations occurred; and why Plaintiff is entitled to relief.

Because Plaintiff's amended complaint will completely replace, not supplement, the original and amended complaints, any facts or claims that Plaintiff wants to include from the original and amended complaints must be repeated in the amended complaint.

² Named Defendants must be listed in the caption. The caption is located on the front page of the complaint. Each individual defendant must be named in the caption. Any defendants named in the caption must also be discussed in Plaintiff's statement of claim.

CONCLUSION

Plaintiff's complaint, filed *in forma pauperis* under 28 U.S.C. § 1915(a)(1), is dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

The Court grants Plaintiff leave to replead valid claims within 30 days of this order. If Plaintiff chooses to replead her claims, she must submit an amended complaint to this Court's Pro Se Intake Unit within thirty days of the date of this order, caption the document as an "Amended Complaint," and label the document with docket number 21-CV-4900 (LTS). An Amended Complaint form is attached to this order. No summons will issue at this time. If Plaintiff fails to comply within the time allowed, and she cannot show good cause to excuse such failure, the Court will enter civil judgment consistent with this order.

The Clerk of Court is instructed to leave this matter open on the docket until judgment is entered.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

Plaintiff has consented to receive electronic service of notices and documents in this case. (ECF No. 3.)

SO ORDERED.

Dated: October 1, 2021
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Write the full name of each plaintiff.

____ CV ____
(Include case number if one has been
assigned)

-against-

AMENDED

COMPLAINT

Do you want a jury trial?

☐ Yes ☐ No

Write the full name of each defendant. If you need more
space, please write "see attached" in the space above and
attach an additional sheet of paper with the full list of
names. The names listed above must be identical to those
contained in Section II.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. BASIS FOR JURISDICTION

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation, and the amount in controversy is more than \$75,000, is a diversity case. In a diversity case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal-court jurisdiction in your case?

- ☐ **Federal Question**
- ☐ **Diversity of Citizenship**

A. If you checked Federal Question

Which of your federal constitutional or federal statutory rights have been violated?

B. If you checked Diversity of Citizenship

1. Citizenship of the parties

Of what State is each party a citizen?

The plaintiff, _____, is a citizen of the State of
(Plaintiff's name)

(State in which the person resides and intends to remain.)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of

_____.

If more than one plaintiff is named in the complaint, attach additional pages providing information for each additional plaintiff.

If the defendant is an individual:

The defendant, _____, is a citizen of the State of
(Defendant's name)

or, if not lawfully admitted for permanent residence in the United States, a citizen or
subject of the foreign state of

If the defendant is a corporation:

The defendant, _____, is incorporated under the laws of
the State of _____

and has its principal place of business in the State of _____

or is incorporated under the laws of (foreign state) _____

and has its principal place of business in _____.

If more than one defendant is named in the complaint, attach additional pages providing
information for each additional defendant.

II. PARTIES

A. Plaintiff Information

Provide the following information for each plaintiff named in the complaint. Attach additional
pages if needed.

First Name	Middle Initial	Last Name
Street Address		
County, City	State	Zip Code
Telephone Number	Email Address (if available)	

B. Defendant Information

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. Attach additional pages if needed.

Defendant 1:

First Name	Last Name
Current Job Title (or other identifying information)	
Current Work Address (or other address where defendant may be served)	
County, City	State Zip Code

Defendant 2:

First Name	Last Name
Current Job Title (or other identifying information)	
Current Work Address (or other address where defendant may be served)	
County, City	State Zip Code

Defendant 3:

First Name	Last Name
Current Job Title (or other identifying information)	
Current Work Address (or other address where defendant may be served)	
County, City	State Zip Code

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

IV. RELIEF

State briefly what money damages or other relief you want the court to order.

V. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

_____		_____	
Dated		Plaintiff's Signature	

First Name	Middle Initial	Last Name	

Street Address			

County, City	State	Zip Code	

Telephone Number		Email Address (if available)	
_____		_____	

I have read the Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☐ Yes ☐ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.